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## CHAPTER 9

# Use of Campaign Funds

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## 1. Disposal of Excess Campaign Funds

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### Definition

*Excess campaign funds* are amounts received as *contributions* which the *candidate* determines are in excess of the amount necessary to defray campaign expenditures. 113.1(e). The Commission has said that excess funds also include assets such as campaign materials and equipment. See, for example, AOs 1994-20, 1990-26, 1990-11 and 1990-02.

### Use of Excess Funds

Excess campaign funds may be used for the following purposes:<sup>1</sup>

- The defrayal of ordinary and necessary expenses of a federal *officeholder*. (House and Senate rules may apply; see Appendix E.) See, for example, AO 1996-45;
- Donations to charities (organizations defined in 26 U.S.C. §170(c)). See, for example, AOs 1997-1 and 1996-40;
- Unlimited transfers to any national, state or local party committee. See, for example, AO 1996-9;
- Travel expenses for a federal officeholder and an accompanying spouse, provided that the travel is undertaken to participate in a function that is connected to the officeholder's official responsibilities. See, for example, AO 1997-2;
- Winding down costs of a federal officeholder's office for a period of six months after leaving office. See, for example, AOs 1996-44 and 1996-14; and

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1. *The Commission has said that campaigns do not have to comply with state laws prohibiting the use of excess funds for purposes specifically identified as lawful under the Act. However, the Act does not supersede state laws governing the use of excess funds for purposes which are lawful but not specifically identified under the Act. See, for example, AO 1987-11.*

- Any lawful purpose except *personal use*. (See Section 2, this chapter.) 113.2.

### Transfers of Excess Funds

Excess funds may be transferred between *authorized committees* of the same candidate (for example, from a previous campaign committee to a current campaign committee) without limit as long as the committee making the transfer has no *net debts outstanding*. 110.3(c) and 116.2(c)(2). See, for example, AO 1987-4.

Alternatively, a candidate may redesignate a former campaign committee as the *principal campaign committee* of his or her current campaign and use the excess funds of the previous campaign in the current campaign. AO 1980-30.

See Chapter 10, "Transfers," for more information.

## 2. Personal Use of Campaign Funds

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Using campaign funds for personal use is prohibited. The regulations provide a test to differentiate legitimate campaign and officeholder expenses from personal expenses, and the regulations include a list of specific expenses that are considered personal use.

### Campaign/Officeholder Expenses vs. Personal Expenses

In determining whether expenses are for personal use or are legitimate campaign/officeholder expenses, the Commission uses the "Irrespective Test" discussed below.

#### The Irrespective Test

Personal use is any use of funds in a campaign account of a candidate (or former candidate) to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or responsibilities as a federal officeholder. 113.1(g). More simply put, if the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then the personal use ban applies.

Conversely, any expense that results from campaign or officeholder activity falls outside the personal use ban.

**EXAMPLE:** A candidate may not pay for his or her personal household expenses with campaign funds because those costs would be incurred even if he or she were not running for federal office.

### Automatic Personal Use

The regulations list some expenses that automatically fall under the personal use ban. Based on these rules, the following paragraphs discuss what kinds of expenses the campaign can and cannot pay for.

#### Household Food Items and Supplies

The candidate cannot use campaign funds to pay for food purchased for daily consumption inside the home or supplies needed to maintain the household. The campaign may, however, pay for food and supplies for fundraising activities and campaign meetings (even when they take place in the candidate's home). 113.1(g)(1)(i)(A).

#### Funeral, Cremation and Burial Expenses

Campaign funds cannot be used to cover expenses related to deaths within the candidate's family. They may, however, be used to cover gifts of nominal value given to people who are not members of the candidate's family, for example, flowers to a constituent's funeral. 113.1(g)(1)(i)(B).

#### Clothing

The campaign cannot pay for attire for political functions (for example, a new tuxedo or dress), but it can pay for clothing of de minimis value such as T-shirts or caps imprinted with a campaign slogan. 113.1(g)(1)(i)(C).

#### Tuition Payments

The campaign can pay for tuition costs that are for training campaign staff to perform campaign tasks. Also, in AO 1997-11, the Commission allowed a federal officeholder to use campaign funds to cover her costs for a Spanish immersion class that she took to better communicate with her constituents. 113.1(g)(1)(i)(D).

#### Mortgage, Rent and Utility Payments

The campaign may not pay for mortgage, rent or utilities for the personal residence of the candidate or the candidate's family even if part of the residence is being used by the campaign. 113.1(g)(1)(i)(E).

The campaign may pay for long distance calls made for campaign purposes from the candidate's residence or the residence of his or her family.